IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINETH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 19875 of 2004

Between:

G. Manoharan, S/o. G. Ganeshan,
R/o. N. S. Nagar Village, H/o. Madarapakam, Gummadipudi Taluk,
Thiravallur District, Tamilnadu State.

..... PETITIONER

AND

Prohibition and Excise Superintendent, Excise Department, Chittoor, Chittoor District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the Respondent in cancelling the licence No.5/2003-04, dt. 1.5.2003 under the name and style of M/s. Mini Wines of the petitioner vide proceedings Rc.No.C1/1071/2004, dt. 4.10.2004 even before expiry of the time granted in the Show Cause Notice, dt. 8.9.2004 is illegal, arbitrary and violative of Article 14 and 21 of the Constitution of India and consequently direct the respondent to permit the petitioner to submit his explanation to the Show Cause notice dt. 8.9.2004 of the Respondent.

Counsel for the Petitioner: MR.J.M.NAIDU

Counsel for the Respondent: GP FOR PROHIBITION & EXCISE

The Court at the admission stage made the following :

ORDER:

This writ petition is filed aggrieved by the order dated 04.10.2004 passed by the respondent herein cancelling the Form IL 24 licence held by the petitioner.

The only contention raised by the petitioner is that though a show cause notice was issued by the respondent calling upon him to explain the allegations, the impugned order was passed even before the time granted for submitting the explanation expired and, therefore, the same being in violation of the principles of natural justice is unsustainable.

On a perusal of the impugned order dated 04.10.2004, it is clear that the show cause notice dated 08.09.2004 was served on the petitioner on 01.10.2004, calling upon him to submit his explanation within seven days from the date of receipt of the notice. However, the impugned order was passed on 04-10-2004 concluding that the licencee failed to submit his explanation against the proposed action since apparently the impugned order was passed much before the expiry of the time granted to the petitioner for submitting the explanation, thus denying an opportunity to the petitioner to rebut the allegations, the same is in violation of the principles of natural justice and on that ground alone it is liable to be set aside.

Accordingly, the impugned order is set aside and the writ petition is disposed of granting liberty to the petitioner to submit his explanation within one week from the date of receipt of this order, in which event, the same shall be considered and appropriate orders shall be passed afresh in accordance with law. No costs.

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29.10.2004

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To

1. The Superintendent, Prohibition and Excise Department, Chittoor, Chittoor District.
2. Two C.Cs to the G.P. for Prohibition and Excise, High Court Buildings, Hyderabad. (OUT).
3. Two C.D. copies.